

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF TENNESSEE  
COOKEVILLE DIVISION

CARLOS FERRELL,	)	
	)	
Plaintiff,	)	
	)	
	)	
VERSUS	)	CASE NO. 2:08-0016
	)	
	)	JUDGE CAMPBELL
CITY OF COOKEVILLE; COOKEVILLE	)	MAGISTRATE JUDGE GRIFFIN
POLICE DEPARTMENT; JEFF JOHNSON;	)	
CHRIS MELTON; JOSH WARD; MYKE	)	
GREEN; CHRIS WILLIAMS; PUTNAM	)	
COUNTY; PUTNAM COUNTY SHERIFF'S	)	
DEPARTMENT, et al.	)	
	)	
Defendants.	)	

**BRIEF IN SUPPORT OF MOTION TO ADMONISH  
AND COMPEL RETRACTION**

Comes the defendant and counter-plaintiff, the City of Cookeville, and in support of its motion to admonish plaintiff's counsel and to provide other sanctions which the Court deems appropriate, including but not limited to, a retraction and apology to this defendant and its officers, this defendant would state and show the Court as follows:

**FACTS**

On or about June 4, 2007, Carlos Ferrell was arrested by officers of the City of Cookeville Police Department. On February 21, 2008, the plaintiff's attorneys instituted suit on behalf of Carlos Ferrell against the City of Cookeville, Chris Melton, Josh Ward

and others, asserting that Cookeville City Police Officer Chris Melton had illegally planted drugs on Carlos Ferrell in an effort to manufacture criminal charges against him, and that Cookeville City Police Officer Josh Ward had given a secret signal to Officer Chris Melton to instigate the planting of drugs to manufacture the illegal criminal charge.

Contemporaneously with the institution of this suit, attorneys for Carlos Ferrell gave interviews to WTVF, Channel 5 in Nashville, and WSMV, Channel 4 in Nashville, publicly asserting that Officer Chris Melton had illegally planted drugs on Carlos Ferrell and that Cookeville City Police Officer Josh Ward had given a secret signal to Officer Chris Melton to instigate the planting of drugs to manufacture the criminal charges and implied that City of Cookeville officers had done this on other occasions:

WTVF, Channel 5 in Nashville:

Blair Durham states:

“The drugs were planted upon Mr. Ferrell’s person by one of the police officers.”

\* \* \*

Blair Durham states:

“It’s just blatant, uh, it’s, it’s that syndrome it seems like of people that just feel like they’re above the law, and literally you wonder how many other people has this happened to.”

\* \* \*

WSMV, Channel 4 in Nashville:

Blair Durham states:

“Now the cops leave. Here’s the hand signal.”

\* \* \*

Blair Durham states:

“That they can tell each other to plant drugs with just a hand gesture, just doing that, you’ve gotta wonder how many other people have gone through this.”

\* \* \*

On or about February 28, 2008, the TBI conducted an investigation. As part of that investigation, Carlos Ferrell admitted that the assertions were false and that the marijuana was, in fact, his, and was not planted by Cookeville City Police Officer Chris Melton.

Moreover, on the DVD, Carlos Ferrell admits that the marijuana is his and also states that he would not run from the Police over marijuana because that is only “five days in jail”, and he had recently spent “a year in jail”. A careful listening to this DVD and close questioning of Carlos Ferrell would have pretermitted these false publications.

The statements by the attorneys representing Carlos Ferrell were in violation of the Rules of this Court, Rule 83.03, which provide in part as follows:

**LR83.03 RELEASE OF INFORMATION CONCERNING  
CIVIL PROCEEDINGS**

**(a) By Attorneys Concerning Civil Proceedings.**

- (1) An attorney or law firm associated with a civil action shall not during its investigation or litigation make or participate in making any extrajudicial statement, other than a quotation from or reference to public records that a reasonable person would expect to be disseminated by means of public communication if there is a serious and immediate threat that such dissemination will interfere with a fair trial.
- (2) Comment relating to the following matters is presumed to constitute a serious and immediate threat to a fair trial, and the burden shall be upon one charged with commenting upon such matters to show that his comment did not pose such a treat:
  - a. Evidence regarding the occurrence or transaction involved;
  - b. The character, credibility, or criminal record of a party, witness, or prospective witness; or
  - c. The performance or results of any examinations or tests or the refusal or failure of a party to submit to an examination or test.

It is averred that these statements to the press were in violation of this Rule, and were done for the sole purpose of preventing the City of Cookeville and its officers from obtaining a fair trial and for defaming them and prejudicing the Court and the prospective jurors against the City of Cookeville and its police officers.

In accordance with Local Rule 83.03(b), this defendant asks the Court to issue special orders regarding these extrajudicial statements and require the plaintiff to issue a public apology to the City of Cookeville and its police officers and issue a press release retracting their assertions.

Respectfully submitted,

MOORE, RADER, CLIFT  
AND FITZPATRICK, P.C.

By s/Daniel H. Rader III B.P.R. No.002835

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing pleading was filed electronically on March 4, 2008. Notice of this filing will be sent by operation of the Court's electronic filing system to all parties indicated on the electronic filing receipt. All other parties will be served by regular U.S. Mail. Parties may access this filing through the Court's electronic filing system.

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Dated this the 4<sup>th</sup> day of March, 2008.

MOORE, RADER, CLIFT  
AND FITZPATRICK, P. C.

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